

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

ROBERT BOWERS

Criminal No. 18-292

**JOINT POSITION REGARDING COURT'S PROPOSED TRIAL ORDER**

The parties, through undersigned counsel and in compliance with the Court's Order at Doc. No. 989, hereby file the following joint position regarding the Court's proposed trial order.

The parties have met and conferred regarding the Court's proposed trial order and the need for further guidance from the Court regarding scheduling of trial-related disclosures and filings. The parties agree upon the following:

1. **Joint Stipulations.** The parties have discussed reaching agreement to stipulations that will obviate the need to call records custodians, certain other witnesses regarding the seizure of evidence, and other reasonable stipulations to allow the expeditious presentation of evidence. The parties agree that joint stipulations for the Guilt Phase shall be filed by April 14, 2023.
2. **Neutral Summary of Indictment.** The parties agree to the following neutral summary of indictment, which will be read to the venire before jury selection and read to the jury to introduce the trial<sup>1</sup>:

As charged in the Superseding Indictment, this case involves the shooting at the Tree of Life Synagogue in the Squirrel Hill neighborhood of Pittsburgh that occurred on October 27, 2018, in which 11 worshippers were killed, and others were shot and injured. Those killed, and two who were shot and survived, were members of the Tree of Life, Dor Hadash, and New Light Jewish congregations who had gathered for worship services. Among the others shot and injured were police officers who were first responders to the scene and were attempting to rescue survivors and capture the shooter. Other worshippers managed to escape the building physically unharmed. While inside the Synagogue, Robert Bowers is said to have made

---

<sup>1</sup> This summary reflects the language that was included in the Juror Questionnaire. See Doc. No. at 938-1 at 16.

statements about his desire to “kill Jews.”

In connection with this incident, Robert Bowers has been charged in a 63-count federal indictment, including charges of hate crimes resulting in death, obstruction of free exercise of religious beliefs resulting in death, discharge of a firearm to commit murder, and other charges. Robert Bowers has entered a plea of not guilty to these charges.

3. **Exchange of Exhibits with the Parties and the Court.** The parties have different proposals for the exchange of Guilt and Penalty Phase exhibits:

- a. The government proposes the simultaneous exchange of Guilt Phase exhibits in electronic format by May 2, 2023. The government further proposes the simultaneous exchange of Penalty (both Eligibility and Selection) Phase exhibits in electronic format by May 23, 2023.
- b. The defense proposes that the government provide Guilt Phase exhibits in electronic format by May 2, 2023, and Mr. Bowers provide Guilt Phase exhibits in electronic format by May 15, 2023. The defense further proposes that the government provide Penalty (both Eligibility and Selection) Phase exhibits in electronic format by May 23, 2023, and Mr. Bowers provide Penalty Phase Exhibits in electronic format within 48 hours of a guilty verdict.

4. **Compliance with 18 U.S.C. § 3432.** The parties agree that “place of abode” means physical addresses, and that the deadline for the Court to provide a list of veniremen including their place of abode, and for the government to provide a list of witnesses “to be produced on the trial for proving the indictment,” and their place of abode pursuant to 18 U.S.C. § 3432, is April 18, 2023.

5. **Sequestration.** The parties agree that crime victims, and their family members are permitted to be present in the courtroom during all phases of the trial, even if they may be

called upon to testify in the guilt or penalty phases of the trial.<sup>2</sup> The parties also agree that Mr. Bowers' family members who may testify during the penalty phase may be present in the courtroom during all phases of the trial. Notwithstanding these general agreements, the parties reserve the right to file a motion seeking sequestration of a particular witness if particular facts and circumstances arise to so warrant.

Respectfully submitted,

/s/ Judy Clarke

Judy Clarke  
Clarke Johnson Thorpe & Rice PC

/s/ Michael N. Burt

Michael N. Burt  
Law Offices of Michael Burt, PC

/s/ Michael J. Novara

Michael J. Novara  
First Assistant Federal Public Defender

/s/ Elisa A. Long

Elisa A. Long  
Supervisory Assistant Federal Public Defender

/s/ Ashwin Cattamanchi

Ashwin Cattamanchi  
Assistant Federal Public Defender

/s/ Troy Rivetti

TROY RIVETTI  
Acting U.S. Attorney  
PA ID No. 56816

/s/ Soo C. Song

Soo C. Song  
Assistant U.S. Attorney  
D.C. Bar No. 457268

/s/ Eric G. Olshan

Eric. G. Olshan  
Assistant U.S. Attorney  
IL ID No. 6290382

/s/ Nicole Vasquez Schmitt

Nicole Vasquez Schmitt  
Assistant U.S. Attorney  
PA ID No. 320316

/s/ Mary J. Hahn

Mary J. Hahn  
Trial Attorney  
Civil Rights Division  
DC ID No. 500193

/s/ Barry K. Disney

Barry K. Disney  
Trial Attorney  
Capital Case Section  
KS ID No. 13284

---

<sup>2</sup> See 18 U.S.C. §§ 3510(b), 3771, and 3593(c).